

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

2. On August 27, 2008, the Department of Human Rights filed a Complaint on behalf of Complainant, alleging that Complainant was terminated from his manager trainee position on account of his sexual orientation.

3. On November 6, 2008, an Order was entered, which noted that the Commission had attempted to contact Complainant for a scheduled telephone conference call, but was unable to do so since the telephone number listed on the Charge of Discrimination had been disconnected. The Order directed Complainant to provide the Commission by December 1, 2008, with a telephone number where he could be reached during business hours, so that a future telephone conference call could be scheduled.

4. On January 9, 2009, an Order was entered, which noted that Complainant had not complied with the Order of November 6, 2008 and gave Complainant one more opportunity to supply the Commission by January 30, 2009 with a telephone number where he could be reached for the purpose of participating in a telephone conference call.

5. Complainant has failed to either supply the Commission with a telephone number or contact the Commission regarding the status of his case as of the date of this recommended order.

6. The Orders of November 6, 2008 and January 9, 2009 were sent to Complainant's last known address.

Conclusions of Law

1. Complainant's failure to provide the Commission with a current telephone number where he can be reached for future telephone conference calls has resulted in an unreasonable delay of this proceeding.

2. The appropriate sanction for Complainant's conduct is dismissal of this matter with prejudice.

Determination

This matter should be dismissed with prejudice due to Complainant's failure to prosecute his case.

Discussion

Section 5300.750(e) of the Commission's Procedural Rules (56 Ill. Admin. Code, Ch. XI, §5300.750(e)) permits a recommendation of dismissal whenever a party engages in conduct

that unreasonably delays the proceedings. Moreover, the Commission has previously dismissed a case where a party has failed to appear at scheduled hearings and/or provide the Commission with basic information as to where the party can be reached. (See, for example, *Tolbert and Lou's Drive-In*, IHRC, ALS No. 11679, March 10, 2003.) Here, Complainant has engaged in such conduct since he has failed to comply with two Commission Orders, directing him to provide the Commission with a current telephone number where he could be reached. Moreover, the January 9, 2009 Order specifically warned Complainant that he risked entry of a future order recommending that this case be dismissed with prejudice for lack of prosecution if he failed to provide the Commission with a telephone number where he could be reached..

Complainant's failure to contact the Commission in the face of an express warning that his case could be dismissed for want of prosecution indicates either that he no longer cares about pursuing his claim or that he agrees that this matter should be dismissed. In any event, his conduct renders it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, *Eglseder and FKG Oil Co.*, IHRC, ALS No. 5384(S), August 12, 1992.

Recommendation

Based on the forgoing, it is recommended that the Complaint and the underlying Charge of Discrimination of Robert J Hawley be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 5TH DAY OF FEBRUARY, 2010